

IN THE SENATE

SENATE BILL NO. 1004

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO PUNISHMENT FOR MANSLAUGHTER; AMENDING SECTION 18-4006, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 18-4007, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE AMOUNT OF SUPPORT PAID WHEN VEHICULAR MANSLAUGHTER RESULTED IN THE DEATH OF THE PARENT OR PARENTS OF A CHILD AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-4006, Idaho Code, be, and the same is hereby amended to read as follows:

18-4006. MANSLAUGHTER DEFINED. Manslaughter is the unlawful killing of a human being including, but not limited to, a human embryo or fetus, without malice. It is of three (3) kinds:

(1-) Voluntary – upon a sudden quarrel or heat of passion.

(2-) Involuntary – in the perpetration of or attempt to perpetrate any unlawful act, other than those acts specified in section 18-4003(d), Idaho Code; or in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection; or in the operation of any firearm or deadly weapon in a reckless, careless or negligent manner which produces death.

(3-) Vehicular – in which the operation of a motor vehicle is a significant cause contributing to the death because of:

(a) The commission of an unlawful act, not amounting to a felony, with gross negligence; or

(b) The commission of a violation of section 18-8004 or 18-8006, Idaho Code; or

(c) The commission of an unlawful act, not amounting to a felony, without gross negligence.

Notwithstanding any other provision of law, any evidence of conviction under subsection (3-)(b) of this section shall be admissible in any civil action for damages resulting from the occurrence. A conviction for the purposes of subsection (3-)(b) of this section means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment(s) or withheld judgment(s).

SECTION 2. That Section 18-4007, Idaho Code, be, and the same is hereby amended to read as follows:

18-4007. PUNISHMENT FOR MANSLAUGHTER. Manslaughter is punishable as follows:

(1-) Voluntary – by a fine of not more than fifteen thousand dollars (\$15,000), or by a sentence to the custody of the state board of correction not exceeding fifteen (15) years, or by both such fine and imprisonment.

(2-) Involuntary – by a fine of not more than ten thousand dollars (\$10,000), or by a sentence to the custody of the state board of correction not exceeding ten (10) years, or by both such fine and imprisonment.

(3-) Vehicular – in the operation of a motor vehicle:

(a) For a violation of section 18-4006(3-)(a), Idaho Code, by a fine of not more than ten thousand dollars (\$10,000), or by a sentence to the custody of the state board of correction not exceeding ten (10) years, or by both such fine and imprisonment.

(b) For a violation of section 18-4006(3-)(b), Idaho Code, by a fine of not more than fifteen thousand dollars (\$15,000), or by a sentence to the custody of the state board of correction not exceeding fifteen (15) years, or by both such fine and imprisonment.

(c) For a violation of section 18-4006(3-)(c), Idaho Code, by a fine of not more than two thousand dollars (\$2,000), or by a jail sentence not exceeding one (1) year, or by both such fine and jail sentence.

(d) In addition to the foregoing, any person convicted of a violation of section 18-4006(3-), Idaho Code, which resulted in the death of the parent or parents of minor children may be ordered by the court to pay support for each such minor child until the child reaches the age of eighteen (18) years. ~~Support shall be established in accordance with the child support guidelines then in effect, and~~ In setting the amount of support, the court shall consider all relevant factors, including:

(i) The financial resources of each child;

(ii) The financial resources, needs and obligations of the defendant and of the surviving parent or guardian of the child or children, which shall not include a surviving parent's community property interest in the financial resources or obligations of a spouse who is not a parent or guardian of the child or children, unless compelling reasons exist;

(iii) The standard of living each child enjoyed during the life of the parent or parents;

(iv) The physical and emotional condition and needs of each child;

(v) The availability of medical coverage for the child at reasonable cost as defined in section 32-1214B, Idaho Code;

(vi) The educational needs of each child; and

(vii) The actual tax benefit realized by the party claiming the federal child dependency exemption.

~~‡~~The nonpayment of such support shall be subject to enforcement and collection by the surviving parent or guardian of the child in the same manner that other child support orders are enforced as provided by law. In no event shall the child support judgment or order imposed by the court under this section be paid or indemnified by the proceeds of any liability insurance policy.

(e) In addition to the foregoing, the driver's license of any person convicted of a violation of section 18-4006(3-), Idaho Code, may be suspended for a time determined by the court.